

Appln. No. 10/761,645  
Amendment Dated October 13, 2006  
Reply to Office Action Mailed April 13, 2006

### **REMARKS**

By the foregoing amendments, Claims 2-10 have been canceled from the present application. In addition, by the foregoing amendments, new Claims 12-26 have been added to the present application.

The Examiner has rejected Claims 1-10, under 35 U.S.C. § 112, second paragraph, as being indefinite. With the entry of this Amendment, Claim 1 has been amended to comply with the requirements of 35 U.S.C. § 112, while Claims 2-10 have been canceled, thereby obviating the rejection to Claims 2-10. It is respectfully submitted that new Claims 12-26 have been drafted to comply with the requirements of 35 U.S.C. § 112.

Claim 2 has been objected to by the Examiner. As previously indicated, Claim 2 has been canceled, thereby obviating this objection.

The Examiner rejected Claims 1-3, 5, 7, 9, and 10 under 35 U.S.C. § 103(a) as being anticipated by Japanese patent publication No. JP2001179149 to Todokoro in view of either Horner et al. U.S. Patent No. 5,057,171, Amore et al. U.S. Patent No. 5,469,779, or Nishizawa et al. U.S. Patent No. 6,999,823. The Examiner has alleged that Todokoro U.S. Patent No. 6,722,869 (hereinafter the "Todokoro reference") is equivalent to Japanese patent publication No. JP2001179149 to Todokoro. Applicants respectfully traverse this rejection for the following reasons. The

rejections to Claims 2, 3, 5, 7, 9, and 10 have been obviated by the cancellation herein of these claims.

The present invention, as recited in amended independent Claim 1, relates to a toy cotton candy machine which includes a base having a rotatable shaft. A spinner is attached to the rotatable shaft such that the spinner is adapted to rotate conjointly with the rotatable shaft. The toy cotton candy machine further includes a **stationary** cap having an inner cavity. The spinner is positioned substantially within the inner cavity of the stationary cap such that the spinner is **substantially inaccessible** to a user. Such an arrangement prevents a child's fingers or other body parts from contacting a rotating device (i.e., the spinner), thereby avoiding injury. Accordingly, applicants' arrangement prevents the development of an unsafe condition.

It is respectfully submitted that the references relied upon by the Examiner in the Office Action (i.e., the Todokoro, Horner et al., Amore et al., and Nishizawa et al. references), whether considered individually or in combination with each other, do not anticipate or make obvious the present invention as recited in amended independent Claim 1. For instance, the cotton candy machine disclosed in the Todokoro reference includes a rotary pot shaft 8 (see FIG. 15) which is adapted to rotate at high speeds (see Col. 4, line 62 to Col. 5, line 6 of the Todokoro reference), and a cover 7 attached to the rotary pot shaft 8 (see, for example, FIG. 15 and Col. 12, lines 30-38). More particularly and with reference to FIGS. 13 and 14, the cover 7 includes an upper cover

member 7a, a cover net guide portion 7c, and a cylinder cover member 7b (which the Examiner equates to as the stationary cap of the present invention) clamped between the upper cover member 7a and the cover net guide portion 7c. The cover net guide portion 7c depicted in the Todokoro reference is directly attached to the rotary pot shaft 8 and rotates conjointly therewith. Because the upper cover member 7a and the cylinder cover member 7b are connected to the cover net guide portion 7c, they also rotate conjointly with the rotary pot shaft 8. Accordingly, the components of the cover 7 will rotate conjointly with the rotary pot shaft 8. Thus, unlike the present invention, access to a rotating device (i.e., the cover 7) is possible, thereby increasing the risk that a child's fingers or other body parts will come into contact with the rotating device. Accordingly, the Todokoro reference fails to disclose or to suggest the toy cotton candy machine recited in amended Claim 1 (i.e., a spinner being positioned substantially within the inner cavity of the **stationary cap** such that the spinner is **substantially inaccessible** to a user. As a result of applicants' novel arrangement, a child's fingers or other body parts is prevented from contacting the spinner. Accordingly, applicants' attorney respectfully submits that the toy cotton candy machine recited in amended Claim 1 is patentably distinguishable from the cotton candy machine disclosed in the Todokoro reference.

With respect to the secondary references relied in the Office Action by the Examiner (the Horner et al., Amore et al., and Nishizawa et al. references), applicants'

attorney respectfully submits that none of them, whether considered individually or in combination with the Todokoro reference, anticipates or makes obvious the present invention as defined in amended independent Claim 1. For instance, the Horner et al. reference discloses a method and apparatus for laminating multi-layer components, the Amore et al. reference discloses an automatic pizza dough press device with interchangeable molds, while the Nishizawa et al. reference discloses a power shut-off method for an injection molding machine. None of these secondary references discloses a cotton candy machine having the components recited in amended Claim 1. In such circumstances, amended Claim 1 is believed to be in condition for allowance, along with all of the claims depending therefrom (i.e., Claims 2-19).

New independent Claim 20 relates to a toy cotton candy machine, which includes a base having a rotatable shaft, and a sensor attached to the base. A **stationary cap** is also provided and includes an inner cavity as well as a magnet adapted to generate a magnetic field which can be sensed by the sensor when the magnet is in close proximity to the sensor. A spinner is attached to the rotatable shaft such that the spinner is adapted to rotate conjointly with the rotatable shaft. The spinner is positioned substantially within the inner cavity of the stationary cap such that the spinner is **substantially inaccessible** to a user. In such circumstances, new independent Claim 20 is patentably distinguishable over the references cited in the Office Action for at least the reasons discussed above. Accordingly, it is respectfully

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submitted that Claim 20 is in condition for allowance, along with all of the claims depending therefrom (i.e., Claims 21-23).

New independent Claim 24 relates to a toy cotton candy machine, which includes a base having a rotatable shaft, and a heat sink positioned within an inner cavity of a **stationary cap**. A spinner is provided and is attached to the rotatable shaft such that the spinner is adapted to rotate conjointly with the rotatable shaft. The spinner is positioned substantially within the inner cavity of the stationary cap and below the heat sink so as to **substantially block access** to the spinner. In such circumstances, new independent Claim 24 is also patentably distinguishable over the references cited in the Office Action for at least the reasons discussed above. Accordingly, it is respectfully submitted that Claim 24 is in condition for allowance, along with all of the claims depending therefrom (i.e., Claims 25 and 26).

For the sake of good order, applicants' attorney notes that the submittal of this Amendment should not be construed as an admission that the Todokoro reference, Japanese patent publication No. JP2001179149 to Todokoro, and/or the Nishizawa et al. reference constitute statutory prior art with respect to the present invention. More particularly, applicants' attorney notes that the Todokoro and Nishizawa et al. references did not issue before the filing date of the present application and, as a result, they do not constitute statutory prior art under 35 USC 102(b). Moreover, the Nishizawa et al. reference was not filed before the effective filing date of the present application

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and, as a result, it does not constitute statutory prior art. Also, Japanese patent publication No. JP2001179149 to Todokoro did not publish more than one year before the filing date of the present application and, as a result, it does not constitute statutory prior art under 35 U.S.C. 102(b).

Kennedy U.S. Patent No. 5,542,835, Miyahara U.S. Patent No. 6,821,102, Johnson U.S. Patent No. 4,133,543, Bedolan U.S. Patent No. 5,332,240, Weiss U.S. Patent No. 4,872,821, Wallace U.S. Patent No. 3,232,244, and Duncan U.S. Patent No. 3,306,722 have not been cited against the pending claims. Applicants' attorney is in agreement with the Examiner concerning the relevance of these references to the pending claims.

The Information Disclosure Statement filed on October 10, 2004 has been objected to because the fourth reference listed, U.S. Patent No. 5,489,144, does not correspond with its listed date and inventor. In compliance with 37 CFR 1.98(a)(1), applicants' attorney has completed United States Patent and Trademark Office Form PTO/SB/08, listing U.S. Patent No. 5,498,144, which corresponds with its listed date and inventor. The completed form is attached hereto for the Examiner's convenience.

In view of the foregoing amendments and remarks, applicants' attorney respectfully requests reexamination and allowance of pending Claim 1, and examination and allowance of new Claims 12-26. If such action cannot be taken, the Examiner is

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cordially invited to place a telephone call to applicants' attorney in order that any outstanding issue may be resolved without the issuance of a further Office Action.

Enclosed is a Petition for a three-month extension of time to and including October 13, 2006, for which a \$1,020.00 fee is due. The Petition authorizes the Examiner to charge this \$1,020 fee to Deposit Account No. 503571. A fee of \$180 is believed to be due in connection with the submission of United States Patent and Trademark Office Form PTO/SB/08. Applicants' attorney hereby authorizes the Examiner to charge this \$180 fee to Deposit Account No. 503571. If there are any additional fees, including extension and petition fees, which may be required as a result of this Amendment, the Examiner is hereby authorized to charge them to Deposit Account No. 503571. A duplicate copy of this letter is enclosed for such purposes.

Respectfully submitted,  
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